IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.W.P. No.17531 of 2004
Date of Decision:04.05.2007

Sh. Sham Saroop and others

.....Petitioners

Vs.

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr.R.S.Bains, Advocate for the petitioners.

Mr. Amol Rattan Singh, Addl. AG, Punjab.

Mr. Puneet Gupta, Advocate for respondents No.3 and 4.

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M.M.Kumar, J. (Oral)

The issue raised in this petition filed under Article 226 of the Constitution of India is to whether the Chairman or Secretary of the Punjab Mandi Board is competent to order transfer of employee like Mandi Supervisors, who are appointed by the concerned Market Committee. The matter is not res integra because this Court in the case of **Rana Sukh Raj v. Punjab State Agricultural Marketing Board,** 1996(1) SCT 602 has taken the view that such power is not available either to the Chairman or Secretary of the Marketing Board. The view taken in **Rana Sukh Raj's case (supra),** by the learned Single Judge has been followed by a Division Bench of this Court in the case of **Sh. Gopal Dass v. State of Punjab and others** (C.W.P. No.14282 of 2004) decided on 6.4.2006

In the present case, the impugned order of transfer has been passed by the Chairman, Punjab Mandi Board on 26.10.2004 (Annexure P.23) transferring Sham Saroop from Pathankot to Narot Jaimal Singh. To that extent, impugned order dated 26.10.2004 (Annexure P.23) is liable to be quashed. However, it has been pointed out that in respect of petitioners No.2 and 3, the transfer orders have been cancelled after filing of the

petition and nothing survives in respect of those two petitioners.

In view of the above, the order dated 26.10.2004 (Annexure P.23) is quashed qua petitioner No.1. When the petition came up for hearing on 8.11.2004, we had stayed operation of order dated 26.10.2004 (Annexure P.23). Consequently, the petitioner would continue to discharge his duties in the cadre of Mandi Supervisor, Pathankot.

The petition stands disposed of.

(M.M.KUMAR)
JUDGE

May 04, 2007 **(RAJESH BINDAL)**
renu **JUDGE**